

*DAC IAW*

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<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)</b>	<b>Docket Number (Optional)</b>  1920-0005
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First Named Inventor: **BELL, David W.** Art Unit: **2856**  
Application Number: **09/764,691** Examiner: **Robert R. Raevis**  
Filed: **January 18, 2001**  
Title: **Low Insertion Force Tip/Mandrel**

Attention: Office of Petitions  
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Commissioner for Patents  
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Alexandria, VA 22313-1450

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Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.**

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

**1. Petition fee**

- ☐ Small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(l)). Applicant claims small entity status.  
See 37 CFR 1.27.
- ☒ Other than small entity - fee \$ 110.00 (37 CFR 1.17(l)).

**2. Reply and/or fee**

- A The reply and/or fee to the above-noted Office action in the form of  
Issue Fee transmittal letter (identify the type of reply):
- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.
- B The issue fee of \$ 1,670.00
- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Russ Fowler

Signature

December 7, 2004

Date

Russell E. Fowler II

Typed or printed name

43,615

Registration Number, if applicable

111 Monument Circle, Suite 3000

Address

(317) 638-2922

Telephone Number

Indianapolis, Indiana 46204-5115

Address

Enclosure ☒ Fee Payment (\$1,780.00)

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐ \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

December 7, 2004

Date

Russ Fowler

Signature

Russell E. Fowler II

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or printed name

\_\_\_\_\_  
Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

See attached sheets.

*(Please attach additional sheets if additional space is needed.)*



**TRANSMITTAL LETTER FOR PETITION FOR REVIVAL OF AN  
APPLICATION FOR PATENT ABANDONED UNAVOIDABLY  
UNDER 37 CFR 1.137(a) AND ISSUE FEE TRANSMITTAL**

MMB Docket No. **1920-0005**

In re patent application of:

Group Art Unit: **2856**

**David W. Bell**

Examiner: **Robert R. Raevis**

Serial No. **09/764,691**

Filing Date: **January 18, 2001**

For: **Low Insertion Force Tip/Mandrel**

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Russell E. Fowler II

Name of person mailing Document or Fee

Russ Fowler

Signature of person mailing Document or Fee

December 7, 2004

Date of Signature

**TO THE COMMISSIONER FOR PATENTS:**

Transmitted herewith is a Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a) and an Issue Fee Transmittal in the above-identified patent application.

- \* A check in the amount of \$1,780.00 is enclosed to cover the issue fee (\$1,670.00) and the surcharge (\$110.00).

Mail Stop Petition  
Commissioner for Patents  
December 7, 2004  
Page 2 of 2

- \* Please provide any extensions of time that may be necessary and charge any fees that may be due to Deposit Account No. 13-0014.

Respectfully submitted,

MAGINOT, MOORE & BECK LLP

A handwritten signature in black ink, appearing to read "Russ Fowler", with a long horizontal flourish extending to the right.

Russell E. Fowler II  
Attorney for Applicant  
Registration No. 43,615

December 7, 2004  
Maginot, Moore & Beck LLP  
Bank One Tower/Center  
111 Monument Circle, Suite 3000  
Indianapolis, Indiana 46204-5115  
(317) 638-2922 telephone  
(317) 638-2139 facsimile



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial. No. : 09/764,691  
Confirmation No. : 6901  
Applicant : Beckman-Coulter, Inc.  
Title : Low Insertion Force Tip/Mandrel  
Filed : January 18, 2001  
Mailing Date of  
Notice of Allowance : August 26, 2004  
Attorney. Docket No. : 1920-0005  
  
Assignee : Beckman-Coulter, Inc.

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(Date of Deposit)

Russell E. Fowler II  
Name of person mailing Document or Fee

Russ Fowler  
Signature

December 7, 2004  
Date of Signature

**ATTACHMENT TO PETITION FOR REVIVAL OF APPLICATION FOR  
PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR § 1.137(a)**

As set forth in the attached petition, Applicant hereby petitions and requests the USPTO to revive the above-referenced abandoned patent application pursuant to 37 CFR § 1.137(a) for failure to pay the issue fee by the deadline. As explained herein, Applicant's delay in payment of the issue fee was unavoidable. In particular, the delay in payment of the issue fee was unavoidable as a consequence of a change of correspondence address where the USPTO mailed the Notice of Allowance to an old address, and the Notice of Allowance failed to reach the Applicant.

A Notice of Allowance for the above-referenced patent application was mailed on August 26, 2004. However, this Notice of Allowance was mailed to an old correspondence address by the USPTO. A change of correspondence address had been recorded by the USPTO for this file seventeen (17) days before the Notice of Allowance was mailed to the old correspondence address. Attached are printed pages from the PAIR system, as well as a copy of the Revocation of Power of Attorney and Change of Correspondence Address filed with the USPTO, to show that the Change of Correspondence Address had been filed and recorded by the USPTO well before the Notice of Allowance was mailed by the USPTO.

Applicant has no knowledge of the whereabouts of the original Notice of Allowance that was mailed to the old correspondence address, as the Notice of Allowance was not forwarded to Applicant. Applicant requested the law firm residing at the old correspondence address to forward all mail received from the USPTO to Applicant at the new correspondence address. However, Applicant never received the Notice of Allowance. Applicant only became aware of the Notice of Allowance after checking the USPTO's PAIR system to check on the status of the application, since it had been several months since a Response had been filed (i.e., July 20, 2004), and Applicant anticipated receipt of an Office action at any time.

According to MPEP § 711.03(c), where an application becomes abandoned as a consequence of a change of correspondence address where an Office action was mailed to an old address, an adequate showing of "unavoidable delay" will require (i) a showing that due care was taken to adhere to the requirement for prompt notification of the change of address, and (ii) an adequate showing that a timely notification of the change of address was filed in the application concerned and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address.

With respect to the above requirements for a showing of unavoidable delay, Applicant adhered to the requirement for a prompt notification of the change of correspondence address. This is evidenced by the fact that a Revocation of Power of Attorney and Change of Correspondence Address document for the above-referenced file was sent to the USPTO on August 4, 2004, and was recorded as received in association with the above-referenced file by the USPTO on August 9, 2004. This document was timely, as it was filed before the Notice of Allowance was mailed. In addition, this document was filed in a manner reasonably calculated to call attention to the fact that it was a notification of change of address. In particular, Applicant used the USPTO's own form PTO/SB/82 which indicates that a "Change of Correspondence Address" was being filed. In addition, Applicant noted that a "Change of Correspondence Address" was being filed on the front page of the August 4, 2004 transmittal letter to the USPTO, a copy of which is also enclosed herein.

Accordingly, it is respectfully submitted that Applicant has made a showing of unavoidable delay in failure to pay the issue fee for the above-referenced application by the November 26, 2004 deadline. A prompt and favorable response to this petition is respectfully requested.

#### **DECLARATION**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this document,

declares that he/she is properly authorized to execute the document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Date: December 7, 2004

By: Russ Fowler  
Russell E. Fowler II  
Attorney for Applicant

Correspondence Address:

Maginot, Moore & Beck  
Bank One Center/Tower  
111 Monument Circle, Suite 3000  
Indianapolis, Indiana 46204-5115  
(317) 638-2922 (phone)  
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Enclosures: Copy of August 4, 2004 Transmittal Letter  
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and Change of Correspondence Address

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09/764,691

LOW INSERTION FORCE TIP/MANDREL

Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Continuity Data	Published Documents	Publication Date
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This application is officially maintained in electronic form. To View: Click the desired document(s) and click StartDownload.

Mail Room Date	Document Description	Page
08-26-2004	Notice of Allowance	
08-26-2004	Notice of Allowance	
08-26-2004	Search info on File Wrapper	
08-26-2004	Claims recorded on File Wrapper	
08-09-2004	Change in Power of Attorney (May include Associate POA)	
08-03-2004	Fee Worksheet (PTO-875)	
07-23-2004	Amendment	
07-23-2004	Claim	
07-23-2004	Applicant Arguments or Remarks Made in an Amendment	
04-28-2004	Non-Final Rejection	
04-26-2004	Fee Worksheet (PTO-875)	
04-26-2004	Claims recorded on File Wrapper	
04-19-2004	Amendment	
04-19-2004	Claim	
04-19-2004	Applicant Arguments or Remarks Made in an Amendment	

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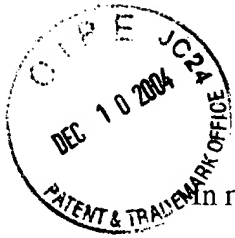
01-16-2004	Non-Final Rejection
01-16-2004	Claims recorded on File Wrapper
12-22-2003	Amendment
12-22-2003	Claim
12-22-2003	Applicant Arguments or Remarks Made in an Amendment
12-22-2003	Request for Continued Examination (RCE)
12-22-2003	Extension of time from Applicant - filed as separate letter
12-19-2003	Fee Worksheet (PTO-875)
12-17-2003	Fee Worksheet (PTO-875)
12-05-2003	Advisory Action (PTOL-303)
12-05-2003	Claims recorded on File Wrapper
12-05-2003	Amendment After Final
11-03-2003	Amendment
11-03-2003	Claim
11-03-2003	Applicant Arguments or Remarks Made in an Amendment
09-02-2003	Final Rejection
08-04-2003	Amendment
08-04-2003	Specification
08-04-2003	Claim
08-04-2003	Applicant Arguments or Remarks Made in an Amendment
08-04-2003	Drawings
08-04-2003	Extension of time from Applicant - filed as separate letter
05-13-2003	Miscellaneous Action with SSP
04-28-2003	Transmittal to TC
04-28-2003	Change of Address
04-28-2003	Change in Power of Attorney (May include Associate POA)
04-07-2003	Non-Final Rejection
04-07-2003	List of references cited by Examiner

04-07-2003	List of References cited by Applicant
05-07-2001	Information Disclosure Statement
05-01-2001	Transmittal to TC
05-01-2001	Drawings
03-02-2001	Miscellaneous Action with SSP
01-18-2001	Issue Information on File Wrapper
01-18-2001	Search info on File Wrapper
01-18-2001	Claims recorded on File Wrapper
01-18-2001	Transmittal of New Application
01-18-2001	Drawings
01-18-2001	Specification
01-18-2001	Claim
01-18-2001	Abstract
01-18-2001	Oath or Declaration filed
01-18-2001	Fee Worksheet (PTO-875)
01-18-2001	Fee Worksheet (PTO-875)
01-18-2001	Transmittal of New Application
01-18-2001	Specification
01-18-2001	Claim
01-18-2001	Abstract
01-18-2001	Drawings
01-18-2001	Oath or Declaration filed

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

**David W. Bell**

Serial No. **09/764,691**

Filed: **January 18, 2001**

Title: **Low Insertion Force  
Tip/Mandrel**

) MMB Docket No. **1920-0005**

) Group Art Unit: **2856**

) Examiner: **Robert R. Raevis**

**ISSUE FEE TRANSMITTAL LETTER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Enclosed please find a completed Issue Fee Transmittal in connection with the above-identified patent application. Our check for \$1,780.00 is enclosed to cover the cost of the issue fee (\$1,370.00), the publication fee (\$300.00) and the surcharge (\$110.00).

Please charge any fee deficiency or credit any overpayment to Deposit Account No. 13-0014.

Respectfully submitted,

MAGINOT, MOORE & BECK LLP

Russell E. Fowler II  
Attorney for Applicant  
Registration No. 43,615

December 7, 2004  
Maginot, Moore & Beck LLP  
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